

REMARKS

A Petition to Revive is being filed concurrently herewith pursuant to 37 CFR 1.137.

A Request for Continued Examination (RCE) is also being filed concurrently herewith pursuant to 37 CFR 1.114.

Upon entry of the present amendment, which is subsequent to entry of the reply filed on February 7, 2003, claims 1-19 are pending in the application, of which claims 1 and 5 are independent.

The above-identified Office Action has been reviewed, the references carefully considered, and the Examiner's comments carefully weighed. In view thereof, the present Amendment is submitted. It is contended that by the present Amendment, all bases of rejection set forth in the Office Action have been traversed and overcome. Accordingly, reconsideration and withdrawal of the final rejection is respectfully requested.

The Final Rejections of the Claims:

In the final rejection of 14 November 2002, claims 1-5 and 7-17 were rejected under 35 USC 103(a) as being unpatentable over Iwamoto in view of Maggard. Claim 6 was rejected under 35 USC 103(a) as being unpatentable over Iwamoto and Maggard as applied to claim 5, and further in view of Anderson. Claims 18 and 19 were not rejected over prior art references, but only for being indefinite under 35 USC 112, first paragraph.

In the Advisory Action mailed February 25, 2003, the Examiner stated

- a) the Amendment-C Under 37 CFR 1.116 submitted by the applicant on February 7, 2003 was appropriate to overcome the 35 USC 112 rejection of claims 18 and 19, but that

- b) claims 1-19 remain rejected over art of record as set forth in the final rejection because the arguments filed by the applicant on February 7, 2003 were not considered to be persuasive.

Applicant's Response

The applicant respectfully traverses the rejection of the claims, and incorporates the remarks submitted in the reply filed on February 7, 2003 (please see pages 3-8 of that paper) herein. However, to promote the prosecution of the application, the applicant has amended the independent claims 1 and 5 to specifically recite the short wavelength range as 700 to 1100 nm, and has further amended these claims to recite the feature of using the ceramic plate as a reference material. These amendments are fully supported by the disclosure on page 2, lines 1-10, and on page 5, lines 8-15, and no new matter has been added to the application by these amendments.

The applicant respectfully submits that the references of record, whether considered alone or in combination, do not disclose or suggest the features added in the above amendment. Specifically, Iwamoto describes validation of a calibration equation by obtaining the absorbances of plural samples by the same method as used for the calibration sample, e.g., multiple regression, and does not disclose the use of a ceramic plate as a reference material. Maggard discloses a two point calibration /standardization and the Beer-Lambert Law rather than the multiple regression used by Iwamoto, but similarly does not disclose the use of a ceramic plate as a reference material.

Based on the foregoing, the rejection of claims 1-5 and 7-17 based on the Iwamoto and Maggard references, and the rejection of claim 6 based on the Iwamoto, Maggard and Anderson references, are believed to be overcome, and it is respectfully requested that such rejections be

reconsidered and withdrawn.

Conclusion

Based on all of the foregoing, applicant respectfully submits that all of the objections and rejections set forth in the final Office Action are overcome, and that as presently amended, all of the pending claims are believed to be allowable over all of the references of record, whether considered singly or in combination.

Applicant requests reconsideration and withdrawal of the rejections of record, and allowance of the pending claims.

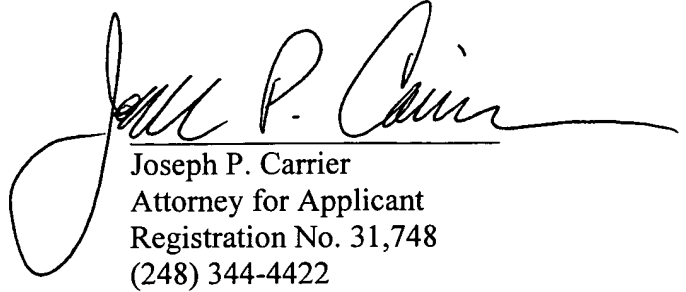
Applicant respectfully submits that the above amendments are fully supported by the original disclosure, including the drawings and claims, no new matter is introduced by the above amendments. The application is now believed to be in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner is not fully convinced of the allowability all of the claims now in the application, applicant respectfully requests that the Examiner telephonically contact applicant's undersigned representative to expeditiously resolve prosecution of the application.

Favorable reconsideration is respectfully requested.

Further to the Letter of Record dated 29 April 2003, advising of related co-pending application USSN 09/810,639 pursuant to MPEP 2001.06(b), applicant respectfully submits that said related co-pending application has issued as US Patent 6,791,674, and claims in said patent include limitations similar to those added to claims 1 and 5 above. Applicant further respectfully submits, however, that the present application claims subject matter which is patentably distinct from that claimed in US Patent 6,791,674.

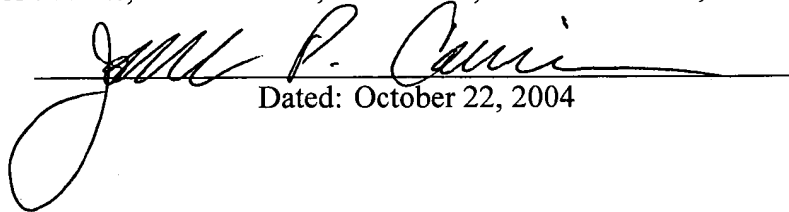
Respectfully submitted,


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the US Postal Service as Express Mail Certificate No. ED 150632325 US in an envelope addressed to Mail Stop Petitions, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on October 22, 2004.


Dated: October 22, 2004

JPC/kmm
Enclosures